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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/768,033	02/02/2004	Atsushi Ishige	248435US90CONT	7788

22850 7590 07/19/2005

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1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER

NAKARANI, DHIRAJLAL S

ART UNIT	PAPER NUMBER
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1773

DATE MAILED: 07/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/768,033

Applicant(s)

ISHIGE ET AL.

Examiner

D. S. Nakarani

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 April 2005.
2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-32 and 34-41 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 21-32 and 34-41 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 21-32 and 34-41 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-13 of U.S.

Patent No. 6,713,169 B2. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claimed invention requires amorphous resin selected from the group consisting of cycloolefinic resins, atactic polystyrenes, polycarbonates and acrylic resins while the claims of U.S. Patent 6,713,169 B2 claims generically amorphous resin having glass transition temperature from 70 to 140°C. The amorphous resins of US Patent 6,713,169 B2 includes amorphous resin claimed in the instant invention. Further the invention as claimed is an open language and inclusive of additional surface layer (C) of U.S. Patent 6,713,169 B2.

3. Claims 21-32 and 34-41 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-18 of U.S.

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Patent No. 6,767,618 B2. Although the conflicting claims are not identical, they are not patentably distinct from each other because this application claims a multi layer stretched resin film comprising a base layer (A) containing 40 to 90 wt% polyolefinic resin and 10 to 60 wt% of filler and an amorphous resin containing layer (B) comprising 0 to 85 wt% polyolefinic resin and 15 to 100 wt% of an amorphous resin having glass transition temperature from 70 to 140°C and selected from cycloolefinic resin, atactic polystyrenes, polycarbonates and acrylic resins while the U.S. Patent 6,767,618 B2 claims a multi layered stretched resin film comprising a base layer (A) comprising more than 90 wt% of a polyolefinic resin and less than 10 wt% filler and amorphous resin containing layer (B) comprising 0 to 85 wt % of polyolefinic resin and 15 to 100 wt% of an amorphous resin having glass transition temperature of 70 to 140°C. U.S. patent 6,767,168 B2 disclose amorphous resins such as claimed in the instant application (col. 5, line 20 to col. 9, lines 31 and Examples Table 2). Thus the composition of the base layer of present invention and of US Patent 6,767,618 B2 almost overlaps because there is no criticality of amount of polyolefin in the base layer is established. Therefore the claimed invention reads on olefin in base layer little higher than 90 wt%. Also it would have been obvious to use amorphous resins used in Examples of U.S. Patent 6,767,618 B2, which encompasses claimed amorphous resins. The invention as claimed is an open language and inclusive of additional layer specified in U.S Patent 6,767,618 B2.

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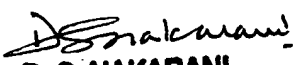
4. Applicant's arguments with respect to claims 21-41 have been considered but are moot in view of the new ground(s) of rejection.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to D. S. Nakarani whose telephone number is (571) 272-1512. The examiner can normally be reached on Tuesday-Friday from 7:00 am to 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carol Chaney can be reached on (571) 272-1284. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

D. S. Nakarani/af
June 20, 2005


D. S. NAKARANI
PRIMARY EXAMINER